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JUN 27 2012

DIV. OF OIL, GAS & MINING

Attorneys for the Debtors

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:  KOREA TECHNOLOGY INDUSTRY AMERICA, INC. et al.,  Debtors.	Bankruptcy Case No. 11-32259 Jointly Administered  Chapter 11 Honorable R. Kimball Mosier  [FILED ELECTRONICALLY]
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**NOTICE OF FILING OF THE DEBTORS' DISCLOSURE STATEMENT FOR FIRST  
AMENDED JOINT PLAN AND NOTICE OF HEARING ON THE DEBTORS' MOTION  
FOR AN ORDER (A) APPROVING THE DISCLOSURE STATEMENT AS  
CONTAINING ADEQUATE INFORMATION, (B) APPROVING PLAN VOTING AND  
SOLICITATION PROCEDURES AND DATES, AND (C) APPROVING NOTICE AND  
SCHEDULING CONFIRMATION HEARING, AND RIGHT TO OBJECT THERETO**

**PLEASE TAKE NOTICE** that Debtors Korea Technology Industry America, Inc., Uintah Basin Resources, LLC, and Crown Asphalt Ridge, L.L.C., debtors and debtors in possession (the "Debtors"), have filed their Disclosure Statement dated June 25, 2012 (the "Amended Disclosure Statement") for their First Amended Joint Plan of Reorganization dated June 25, 2012 (the "Amended Plan") and have also filed a motion (the "Motion") pursuant to sections 105, 1125, 1126 and 1128 of title 11 of the United States Code; Rules 2002, 3003, 3017,

3018 and 3020 of the Federal Rules of Bankruptcy Procedure; and Rule 2002-1 and 9013-1 of the Local Rules of this Court, for entry of an Order approving the Amended Disclosure Statement as containing adequate information, approving certain proposed plan voting solicitation procedures (including a form of ballot) and vote tabulation procedures, fixing deadlines for voting on the Amended Plan and for objecting to the Amended Plan, fixing a deadline for motions to be filed to temporarily allow disputed claims for purposes of voting, and scheduling a hearing on confirmation of the Amended Plan. Copies of the Amended Disclosure Statement have been served on certain parties in the Debtors' chapter 11 cases as required by Fed. R. Bankr. P. 3017(a). As noted below, anyone who receives a copy of this Notice and does not receive a copy of the Amended Disclosure Statement may obtain a copy of the Amended Disclosure Statement without charge. The Amended Disclosure Statement has not been approved by the Bankruptcy Court and may not be used to solicit votes on the Amended Plan unless and until it is approved as containing adequate information pursuant to section 1125 of the Bankruptcy Code (11 U.S.C. § 1125). A copy of the Motion is being served on you contemporaneously with this Notice.

**PLEASE TAKE FURTHER NOTICE** that your rights may be affected. You should read this Notice and the Motion carefully and discuss them with your attorney, if you have one, in this bankruptcy case.

**PLEASE TAKE FURTHER NOTICE** that, if you do not want the Bankruptcy Court to approve the Motion in whole or in part, or if you want the Bankruptcy Court to consider your views on the Motion, then you or your attorney must file with the Bankruptcy Court a written objection to the Motion in conformity with Rule 9013-1 (e) and (h) of the Bankruptcy Court's

local rules of practice so that it is **received** no later than **Thursday, July 19, 2012, at 4:30 p.m.**

**MDT.** Your objection must be filed at:

Clerk  
United States Bankruptcy Court  
350 South Main Street  
Salt Lake City, Utah 84101

A copy of your objection must be served on the counsel for the Debtors listed below.

**PLEASE TAKE FURTHER NOTICE** that, if you mail your objection to the Bankruptcy Court for filing, you must mail it early enough so the Court will **receive** it on or before the time and date stated above.

**PLEASE TAKE FURTHER NOTICE** that the Motion will come on for hearing before the Honorable R. Kimball Mosier, United States Bankruptcy Judge, on **Wednesday, July 25, 2012, at 3:00 p.m., MDT**, in his courtroom, Room 369, Frank E. Moss United States Courthouse, 350 South Main Street, Salt Lake City, Utah 84101. You or your attorney must attend the hearing on the Motion if you want your objection to be considered by the Bankruptcy Court.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Rule 9013-1(d) and (f), absent timely filing and service of objections to the Motion, the Debtors may request that the Court approve the Motion without further notice or hearing.

**PLEASE TAKE FURTHER NOTICE** that if you did not receive a copy of the Amended Disclosure Statement, or if you wish to view other documents filed with the Court, these may be inspected and copied at the office of the Clerk of the Bankruptcy Court during normal business hours or downloaded from the Bankruptcy Court's web site, using a PACER account, at the following site: <https://ecf.utb.uscourts.gov>. Please note that prior registration

with the PACER Service Center and payment of a fee may be required to access such documents through the Bankruptcy Court's website. Parties may sign up for a PACER account by visiting the PACER website at <http://pacer.psc.uscourts.gov> or by calling (800) 676-6856. Requests for copies of the Amended Disclosure Statement and for further information regarding the Debtors' chapter 11 cases or the hearing on the adequacy of the Amended Disclosure Statement may also be made to counsel for the Debtors using the contact information given below.

DATED this 25<sup>th</sup> day of June, 2012.

DURHAM JONES & PINEGAR, P.C.

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Attorneys for the Debtors

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:	Bankruptcy Case No. 11-32259 Jointly Administered
KOREA TECHNOLOGY INDUSTRY AMERICA, INC. et al.,	Chapter 11 Honorable R. Kimball Mosier
Debtors.	[FILED ELECTRONICALLY]

**DEBTORS' MOTION FOR AN ORDER (A) APPROVING THE DISCLOSURE  
STATEMENT FOR FIRST AMENDED JOINT PLAN AS CONTAINING  
ADEQUATE INFORMATION, (B) APPROVING PLAN VOTING  
AND SOLICITATION PROCEDURES, AND (C) APPROVING  
NOTICE AND SCHEDULING OF CONFIRMATION HEARING**

Debtors Korea Technology Industry America, Inc. ("KTIA"), Uintah Basin Resources, LLC ("UBR"), and Crown Asphalt Ridge, L.L.C. ("CAR"), debtors and debtors in possession (together sometimes referred to as the "Debtors"), hereby file this motion (the "Motion") pursuant to sections 105, 1125, 1126 and 1128 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 3003, 3017, 3018 and 3020 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 2002-1 and 9013-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of



Utah (the “Local Rules”), for entry of an Order approving the Debtors’ Disclosure Statement for the Debtors First Amended Joint Plan of Reorganization dated June 25, 2012 (the “Amended Disclosure Statement”)<sup>1</sup> for their First Amended Joint Plan of Reorganization dated June 25, 2012 (the “Amended Plan”) as containing adequate information, and approving certain proposed procedures, dates, and notices. In support of this Motion, the Debtors respectfully represent as follows:

### **CASE BACKGROUND AND JURISDICTION**

1. On August 22, 2011, (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.
2. The Debtors have continued in possession of their properties and have continued to operate their business as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.
3. On February 17, 2012, the Debtors filed their Joint Plan of Reorganization Dated February 17, 2012 (the “Original Plan”) and the Disclosure Statement related thereto (the “Original Disclosure Statement.” A hearing on the adequacy of the proposed Disclosure Statement was held March 27, 2012. Following the hearing the Court entered its Order approving the Original Disclosure Statement, approving plan voting and solicitation procedures and dates, and approving notice and scheduling confirmation hearing (the “Order Approving Original Disclosure Statement”). Following the Court’s approval of the Original Disclosure Statement, the Debtors and their two largest creditors, Western Energy Partners, LLC (“Western”) and Elgin Services Company, Inc. (“Elgin”) entered into negotiations to modify the

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<sup>1</sup> Unless otherwise defined herein, all capitalized terms contained in this Motion shall have the meanings ascribed to them in the Amended Plan.

Original Plan so that, in the event that the sale of the Debtors' assets to Rutter & Wilbanks Corporation ("R&W"), which has been approved by the Court, did not close, the Debtors and other parties in interest would not be required to propose and seek to confirm a different plan of reorganization. The Debtors, Western, and Elgin have agreed to modifications to the Original Plan, which have now been filed. The Amended Plan addresses this issue by permitting an alternative sale to a new buyer or, in the event a new buyer is not obtained, an auction. This provides the creditors with some finality and avoids the cost and delay that might be associated with filing a new plan and disclosure statement if it turns out that the sale to R&W does not close.

4. Because of the ongoing negotiations, which resulted in the filing of the Amended Plan and Disclosure Statement, the Debtors did not send out solicitation packets to creditors and did not proceed with the scheduled confirmation hearing on the Original Plan on May 24, 2012.

5. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

#### **RELIEF REQUESTED**

6. By this Motion, the Debtors respectfully request entry of an Order pursuant to Bankruptcy Code sections 105, 1125, 1126, and 1128 and Bankruptcy Rules 2002, 3017, 3018, and 3020 (the "Disclosure Statement and Voting Procedures Order"): (a) approving the Amended Disclosure Statement as containing adequate information and authorizing its use in solicitation of votes on the Amended Plan; (b) establishing procedures for voting and the solicitation of votes on the Amended Plan, including (i) fixing a new record date for purposes of determining which holders of claims against the Debtors are entitled to vote on the Amended

Plan; (ii) approving solicitation packages and procedures for distribution of the Amended Disclosure Statement, (iii) approving forms of ballots and balloting instructions, (iv) fixing a voting deadline, and (v) establishing procedures for tabulating votes on the Amended Plan; (d) scheduling a hearing and establishing notice and objection procedures with respect to confirmation of the Amended Plan; and (e) granting related relief, all as more fully set forth below.

#### **I. ADEQUACY OF THE AMENDED DISCLOSURE STATEMENT**

7. The Debtors believe that the Amended Disclosure Statement should be approved as containing adequate information. The Amended Disclosure Statement contains the same background that the Original Disclosure Statement contained and is modified only to reflect the changes in the Amended Plan. Many of these changes are important but they generally issues that arise because Pursuant to section 1125 of the Bankruptcy Code, when soliciting a vote on the Amended Plan, the Debtors must provide holders of Claims with a disclosure statement containing "adequate information" regarding the Amended Plan. Bankruptcy Code section 1125(a)(1) defines adequate information:

"[A]dequate information" means information of a kind, and in sufficient detail, as far as is reasonable practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan. . . .

As case law in this District makes clear, "[t]he premise underlying Chapter 11 is disclosure. '[T] parties should be given adequate disclosure of relevant information, and they should make their own decision on the acceptability of the proposed plan of reorganization.' . . . The disclosure statement was intended by Congress to be the primary source of information upon which



creditors and shareholders would make an informed judgment about a plan of reorganization.” *In re Jeppson*, 66 B.R. 269, 291 (Bankr. D. Utah 1986) (references omitted). Further, “[t]he required disclosure is determined by the courts on a case-by-case basis, which ‘permits a certain amount of flexibility based on the condition of the debtor and of his books and records.’” *Id.* at 292 (references omitted).

8. The bankruptcy court has broad discretion in determining the adequacy of information contained in a disclosure statement. *See Texas Extrusion Corp. v. Lockheed Corp.* (*In re Texas Extrusion Corp.*), 844 F.2d 1142, 1157 (5<sup>th</sup> Cir. 1988) (Congress intentionally defined adequate information vaguely so that bankruptcy courts may exercise discretion in determining what information is sufficient in a given case); *In re Dakota Rail, Inc.*, 204 B.R. 138, 142 (Bankr. D. Minn. 1989) (the court has “wide discretion to determine . . . whether a disclosure statement contains adequate information without burdensome, unnecessary and cumbersome detail”). Congress recognized this need for discretion and flexibility: “[i]n reorganization cases, there is frequently great uncertainty. Therefore, the need for flexibility is greatest.” H.R. Rep. No. 595, 95<sup>th</sup> Cong., 1<sup>st</sup> Sess. 409 (1977).

9. Courts, including this Court, have developed lists of information typically included in a disclosure statement. Judge Clark, in *Jeppson*, lists the following:

- (a) The circumstances that gave rise to the filing of the bankruptcy petition.
- (b) A complete description of the available assets and their value.
- (c) The anticipated future of the debtors.
- (d) The source of information provided in the disclosure statement.
- (e) A disclaimer.
- (f) The condition and performance of the debtor while in Chapter 11.

- (g) Information on claims against the estate.
- (h) The estimated return that creditors would receive in Chapter 7.
- (i) The accounting and valuation methods used in the disclosure statement.
- (j) Information regarding the future management of the debtor.
- (k) A summary of the plan of reorganization.
- (l) An estimate of all administrative expenses, including attorneys' fees and accountants' fees.
- (m) The collectability of any accounts receivable.
- (n) Any financial information, valuations or pro forma projections that would be relevant to creditors' determinations of whether to accept or reject the plan.
- (o) Information relevant to the risks being taken by the creditors and interest holders.
- (p) The actual or projected value that can be obtained from voidable transfers.
- (q) The existence, likelihood and possible success of non-bankruptcy litigation.
- (r) Any tax consequences of the plan.
- (s) The relationship of the debtor with affiliates.

*In re Jeppson*, 66 B.R. at 292. Such a list of information is not intended to be comprehensive, neither must a debtor provide all the information in the list. Rather, the court is to decide what is appropriate in each case. *In re Phoenix Petroleum Co.*, 278 B.R. 385, 393 (Bankr. E.D. Pa. 2001) (adopting a similar list, but cautioning that "no one list of categories will apply in every case"). In 2005, section 1125 was amended to provide that adequate information includes a discussion of Federal tax consequences of a plan, and to clarify that a cost-benefit analysis concerning the costs versus the benefits of providing additional information is appropriate.

11 U.S.C. § 1125(a)(1).

10. The Debtors believe that the Amended Disclosure Statement contains adequate information as required by section 1125 of the Bankruptcy Code and applicable case law.

**II. ESTABLISHING PROCEDURES FOR VOTING AND SOLICITATION OF VOTES ON THE AMENDED PLAN**

**A. Fixing a Record Date**

11. Bankruptcy Rule 3017(d) provides that, for the purposes of soliciting votes in connection with the confirmation of a plan of reorganization, "creditors and equity security holders shall include holders of stock, bonds, debentures, notes and other securities of record on the date the order approving the disclosure statement is entered or another date fixed by the court, for cause, after notice and a hearing." Fed R. Bankr. P. 3017(d). Bankruptcy Rule 3018(a) contains a similar provision regarding determination of the record date for voting purposes.

12. In accordance with such Bankruptcy Rules, the Debtors propose that the Court establish the date of the entry of the Disclosure Statement and Voting Procedures Order as the record date (the "Record Date") for purposes of determining which holders of Claims and Interests are entitled to receive the Solicitation Packages (as defined herein).

**B. Approving Solicitation Packages, Certain Notices and Procedures for Distribution Thereof to Voting Classes**

13. Bankruptcy Rule 3017 sets forth the materials that must be provided to holders of claims and equity interests for the purpose of soliciting their votes and providing adequate notice of the hearing on confirmation of a plan of reorganization. In particular, Bankruptcy Rule 3017(d) provides that:

Upon approval of a disclosure statement, -- except to the extent that the court orders otherwise with respect to one or more unimpaired classes of creditors or equity security holders -- the debtor in possession, trustee, proponent of the plan, or clerk as the court orders, shall mail to all creditors and equity security

holders, and in a chapter 11 reorganization case shall transmit to the United States trustee:

- (1) the plan or a court-approved summary of the plan;
- (2) the disclosure statement approved by the court;
- (3) notice of the time within which acceptances and rejections of the plan may be filed; and
- (4) any other information as the court may direct, including any court opinion approving the disclosure statement or a court approved summary of the opinion.

In addition, notice of the time fixed for filing objections and the hearing on confirmation shall be mailed to all creditors and equity security holders in accordance with Rule 2002(b), and a form, of ballot conforming to the appropriate Official Form shall be mailed to creditors and equity security holders entitled to vote on the plan. . . .

14. In accordance with the requirements of Bankruptcy Rule 3017(d), after the Court has approved the Amended Disclosure Statement as containing adequate information pursuant to section 1125 of the Bankruptcy Code, the Debtors propose to distribute or cause to be distributed solicitation packages (the "Solicitation Packages") containing copies of:

- a. the Amended Disclosure Statement, together with the Amended Plan and other exhibits annexed thereto;
- b. the Disclosure Statement and Voting Procedures Order, excluding exhibits annexed thereto;
- c. the Confirmation Hearing Notice (as defined below);
- d. a Ballot as approved by the Court; and
- e. such other materials as the Court may direct or approve, including supplemental solicitation materials the Debtors may file with the Court.

15. In addition, with respect to any transferred Claim, the Debtors propose that the transferee will be entitled to receive a Solicitation Package and cast a Ballot (as defined below) on account of the transferred Claim only if: (a) all actions necessary to effect the transfer of the Claim pursuant to Bankruptcy Rule 3001(e) have been completed by the Record Date; or (b) the transferee files, no later than the Record Date, (i) the documentation required by Bankruptcy Rule 3001(e) to evidence that transfer and (ii) a sworn statement of the transferor supporting the validity of the transfer. In the event a Claim is transferred after the transferor has completed a Ballot (as defined below), the transferee of such Claim shall also be bound by any vote (and the consequences thereof) made on the Ballot (as defined below) by the holder as of the Record Date of such transferred Claim.

16. The Debtors expect that they will be able to commence distribution of the Solicitation Packages no later than the date that is seven (7) calendar days after the entry of the Disclosure Statement and Voting Procedures Order (the "Solicitation Commencement Date") to all holders of Claims against the Debtors. To avoid duplication and reduce expense, the Debtors propose that creditors, if any, who have more than one Claim against the Debtors should receive only one Solicitation Package and one or more Ballots (as defined below), as necessary.

17. Furthermore, the Amended Plan designates two categories of Claims that are receiving distributions under the Amended Plan but that are unclassified for purposes of voting to accept or reject the Amended Plan. These Claims include: (i) Administrative Expense Claims, and (ii) Priority Tax Claims (collectively, the "Unclassified Claims"). The Debtors propose sending each class of unclassified claims a Solicitation package without a Ballot since these claimants are not entitled to vote on the Amended Plan.



**C. Approving Forms of Ballot and Establishing Procedures for Voting on the Amended Plan**

Approving Form of Ballot and Related Issues

18. Bankruptcy Rule 3017(d) requires the Debtors to mail a form of ballot to “creditors and equity security holders entitled to vote on the plan.” The Debtors propose to distribute to creditors one or more ballots (and instructions attached thereto) (the “Ballot[s]”) substantially in the generic form annexed hereto as Exhibit A.<sup>2</sup> The form for the Ballot is based upon Official Form No. 14, but has been modified to address the particular aspects of these chapter 11 cases. The appropriate Ballots will be distributed to holders of Claims that are entitled to vote on the Amended Plan in the classes designated as impaired under the Amended Plan. The Ballot will include instructions to be returned to counsel for the Debtors for tabulation.

19. All classes under the Amended Plan that are either unimpaired and conclusively presumed to have accepted the Plan or are impaired and not entitled to vote on the Plan because they are not retaining any property under the Plan will not receive a Ballot. Currently, the Debtors believe that Class 6 is the only Class that will not receive a ballot.

Establishing Voting Deadline for Receipt of Ballots

20. Bankruptcy Rule 3017(c) provides that, on or before approval of a disclosure statement, the court shall fix a time within which the holders of Claims or Interests may accept or reject a plan. The Debtors will use their reasonable best efforts to commence solicitation no later

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<sup>2</sup> Each Class of Claims and Interests entitled to vote on the Plan will receive a slightly different Ballot, because each will be tailored to that Class and will list the amount of Claim based on the higher of the scheduled amount of the Claim or the amount of the proof of claim, unless an objection to that Claim is filed.

than seven (7) calendar days after entry of an order approving the Amended Disclosure Statement and will complete mailing by such date.

21. Based on this schedule, the Debtors respectfully request that the Court establish a date for the deadline by which all Ballots must be properly executed, completed, delivered to, and received by Durham Jones & Pinegar, counsel for the Debtors, which is thirty-one (31) days after notice of the Confirmation Hearing is served (unless such date falls on a weekend or a holiday, in which case the deadline should be fixed as the next business day (the “Voting Deadline”).

Approval of Procedures for Vote Tabulation

22. The Debtors request that their counsel be designated as the party entitled to tabulate votes and present the Ballots and a summary thereof to the Court in connection with the Confirmation Hearing (hereinafter the “Voting Agent”).

23. The Debtors propose that each holder of a Claim within a class of Claims entitled to vote to accept or reject the Amended Plan be entitled to vote the amount of such Claim as is held as of the Record Date.

24. The Debtors further propose that if any party wishes to have its Claim allowed for purposes of voting on the Amended Plan in a manner that is inconsistent with the Ballot it received or if any party that did not receive a Ballot wishes to have its Claim temporarily allowed for voting purposes only, such party must serve on the Debtors and file with the Bankruptcy Court, by a date sufficiently before the hearing on confirmation of the Amended Plan to permit resolution, a motion for an order pursuant to Bankruptcy Rule 3018(a) temporarily allowing such Claim for purposes of voting (the “3018 Motion”). A 3018 Motion must set forth with particularity the amount and classification in which such party believes its Claim should be

allowed for voting purposes, and the evidence in support of its belief. With respect to any timely-filed 3018 Motion, the Ballot in question shall be counted (a) in the amount established by the Bankruptcy Court in an order entered on or before the Voting Deadline or (b) if such an order has not been entered by the Voting Deadline and unless the Debtors and the party have come to an agreement as to the relief requested in the 3018 Motion. Failing this procedure, such party shall not have a Ballot counted at all. The Debtors propose that the Court establish a date for a hearing to consider all 3018 Motions.

25. If a Claim is contingent, unliquidated, or disputed, or if a Claim is disputed by objection, and failing such creditor obtaining allowance pursuant to a 3018 Motion, the Debtors propose that such Claim not be counted in number or amount for voting purposes.

26. The Debtors propose that the following types of Ballots not be counted in determining whether the Amended Plan has been accepted or rejected:

- a. any Ballot received after the Voting Deadline;
- b. any Ballot containing a vote that this Court determines, after notice and a hearing, was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code;
- c. any Ballot that is illegible or contains insufficient information to permit the identification of the claimant;
- d. any Ballot cast by a person or entity that does not hold a Claim or Interest in a Class that is entitled to vote to accept or reject the Amended Plan;
- e. any unsigned or non-original Ballot; and
- f. any Ballot transmitted to the Voting Agent by facsimile or other electronic means.

27. In addition, the Debtors propose that the following voting procedures and standard assumptions be used in tabulating the Ballots:

a. The method of delivery of Ballots to be sent to the Voting Agent is at the election and risk of each creditor, but such delivery will be deemed made only when the original, executed Ballot is actually received by the Voting Agent.

b. If multiple Ballots are received from an individual creditor with respect to the same Claims prior to the Voting Deadline, the last Ballot timely received will be deemed to reflect the voter's intent and to supersede and revoke any prior Ballot.

c. Any Ballot that is otherwise properly completed, executed, and timely returned to the Voting Agent, but does not indicate an acceptance or rejection of the Amended Plan, or that indicates both an acceptance and rejection of the Amended Plan, will be deemed to be a vote to accept the Amended Plan. Creditors should be required to vote all of their claims either to accept or reject the Amended Plan and should not be permitted to split their vote, and thus, Ballots of creditors that partially accept and partially reject the Amended Plan should not be counted.

d. The Debtors, in their sole discretion, subject to contrary order of the Court, may waive any defect in any Ballot at any time including failure to timely file such Ballot, either before or after the close of voting, and without notice. Except as provided below, unless the Ballot being furnished is timely submitted on or prior to the Voting Deadline, the Debtors may, in their sole discretion, reject such Ballot as invalid and, therefore, decline to utilize it in connection with confirmation of the Amended Plan.

e. In the event a designation is requested under section 1126(e) of the Bankruptcy Code, any vote to accept or reject the Amended Plan cast with respect to such

claim will not be counted for purposes of determining whether the Amended Plan has been accepted or rejected, unless the Court orders otherwise.

f. After the Voting Deadline, no vote may be withdrawn or modified without the prior consent of the Debtors.

g. Subject to any contrary order of the Court, the Debtors reserve the right to reject any and all Ballots not proper in form.

h. Unless waived or as ordered by the Court, any defects or irregularities in connection with deliveries of Ballots must be cured within such time as the Debtors (or the Court) determine, and unless otherwise ordered by the Court, delivery of such Ballots will not be deemed to have been made until such irregularities have been cured or waived.

i. Neither the Debtors, nor any other person or entity, will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots, nor will any of them incur any liabilities for failure to provide such notification. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will not be counted.

j. If a timely-filed proof of claim is marked on the proof of claim as contingent or unliquidated or is designated as such by Court Order, unless the Court orders otherwise, such claim will be temporarily allowed for voting purposes only, and not for purposes of allowance, at \$1.00.

k. If a Claim is listed in the Schedules as contingent, unliquidated, or disputed and a proof of claim was not (i) filed before the applicable bar date for filing such proof of claim or (ii) deemed timely filed by an order of the Court prior to the



Voting Deadline, unless the Debtors have consented in writing, such claim will be disallowed for voting purposes and for purposes of allowance and distribution pursuant to Fed. R. Bankr. P. 3003(c).

### **III. ESTABLISHING NOTICE AND OBJECTION PROCEDURES IN RESPECT OF CONFIRMATION OF THE AMENDED PLAN**

#### **A. Setting the Confirmation Hearing**

28. Bankruptcy Rule 3017(c) provides:

On or before approval of the disclosure statement, the court shall fix a time within which the holders of claims and interests may accept or reject the plan and may fix a date for the hearing on confirmation.

29. In accordance with Bankruptcy Rule 3017(c) and in view of the Debtor's proposed solicitation schedule outlined herein, the Debtors request that a hearing on confirmation of the Amended Plan (the "Confirmation Hearing") be scheduled, subject to the Court's calendar, approximately one week following the proposed Voting Deadline. The Debtors also request that the Court order that the Confirmation Hearing may be continued from time to time without further notice to creditors or other parties in interest.

#### **B. Establishing Procedures for Notice of the Confirmation Hearing**

30. Bankruptcy Rule 2002(b) and (d) require not less than twenty-eight (28) days' notice to all creditors, indenture trustees and equity security holders of the time fixed for filing objections to confirmation of a plan of reorganization and the hearing to consider confirmation of a plan of reorganization. In accordance with the Bankruptcy Rules, the Debtors propose to provide all known creditors, parties filing a notice of appearance in these cases, governmental units having an interest in these cases, each as of the Record Date, with a copy of the notice of the confirmation hearing (the "Confirmation Hearing Notice"), substantially in a form complying

with local and Federal rules. Such notice will be sent contemporaneously with the Solicitation Packages.

**C. Establishing Procedures for the Filing of Objections to Confirmation of the Amended Plan**

31. Bankruptcy Rule 3020(b) provides that objections to confirmation of a proposed plan of reorganization must be filed with the Bankruptcy Court and served on the debtor, the trustee, any committee appointed under the Bankruptcy Code, and on any other entity designated by the Bankruptcy Court, within a time specified by the Bankruptcy Court.

32. The Debtors requests that the Court set a date by which objections to the Amended Plan must be filed (the "Objection Deadline"). The Debtors request that the Court direct that objections, if any, to confirmation of the Amended Plan: (i) be made in writing, (ii) state the name and address of the objecting party and the nature of the claim or interest of such party, (iii) state with particularity the legal and factual basis and nature of any objection to the Amended Plan, and (iv) be filed with the Court, together with proof of service, and served so that they are received on or before the Objection Deadline.

33. The Debtors further propose that the Debtors, or any party supporting the Amended Plan, be afforded an opportunity to file a response to any objection to confirmation of the Amended Plan by a date at least four days prior to the Confirmation Hearing.

WHEREFORE, the Debtors respectfully request that this Court enter an Order (a) approving the Amended Disclosure Statement as containing adequate information and authorizing its use in solicitation of votes on the Amended Plan; (b) establishing procedures for voting and the solicitation of votes on the Amended Plan as set forth above; (c) scheduling a

hearing and establishing notice and objection procedures with respect to confirmation of the Amended Plan; and (d) granting such other and further relief as is just and proper.

DATED this 25<sup>th</sup> day of June, 2012.

DURHAM JONES & PINEGAR, P.C.

By: /s/ Kenneth L. Cannon II

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Attorneys for Debtors and  
Debtors in Possession

# EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:	Bankruptcy Case No. 11-32259 Jointly Administered
KOREA TECHNOLOGY INDUSTRY AMERICA, INC. et al.,	Chapter 11
Debtors.	Honorable R. Kimball Mosier

**BALLOT FOR ACCEPTING OR REJECTING FIRST AMENDED JOINT PLAN OF  
REORGANIZATION OF DEBTORS KOREA TECHNOLOGY INDUSTRY  
AMERICA, INC., UINTAH BASIN RESOURCES, LLC, AND CROWN  
ASPHALT RIDGE, L.L.C. DATED JUNE 25, 2012**

Class      —                                  Claim/Claims

**PLEASE READ AND FOLLOW THE ENCLOSED VOTING INSTRUCTIONS CAREFULLY  
BEFORE COMPLETING THE BALLOT.**

**PLEASE CHECK THE APPROPRIATE BOX BELOW TO INDICATE YOUR ACCEPTANCE  
OR REJECTION OF THE PLAN.**

**YOUR VOTE MUST BE RECEIVED BY DURHAM JONES & PINEGAR, P.C., 111 EAST  
BROADWAY, SUITE 900, P.O. BOX 4050, SALT LAKE CITY, UT 84110-4050, ATTN:  
KENNETH L. CANNON II (“DEBTORS’ COUNSEL” OR “VOTING AGENT”) BY 4:30 PM,  
MDT, ON OR BEFORE           ,           , 2012 (THE “VOTING DEADLINE”), UNLESS  
THE DEBTORS, IN THEIR SOLE AND ABSOLUTE DISCRETION, OR THE COURT  
EXTENDS OR WAIVES THE PERIOD DURING WHICH VOTES WILL BE ACCEPTED BY  
THE DEBTORS, IN WHICH CASE THE TERM “VOTING DEADLINE” FOR SUCH  
SOLICITATION SHALL MEAN THE LAST TIME AND DATE TO WHICH SUCH  
SOLICITATION IS EXTENDED.**

This Ballot may not be used for any purpose other than for casting votes to accept or reject the First Amended Joint Plan of Reorganization of Debtors Korea Technology Industry America, Inc., Uintah Basin Resources, LLC and Crown Asphalt Ridge, L.L.C. dated June 25, 2012 (the “Plan”). All capitalized terms used in this Ballot or Voting Instructions (attached hereto) but not otherwise defined herein shall have the same meaning ascribed to them in the Plan and/or Order (A) Approving Disclosure Statement, (B) Approving Plan Voting and Solicitation Procedures and Dates, and (C) Approving Notice of and Scheduling Confirmation Hearing (the “Disclosure Statement and Solicitation Order”).



**Item 1. Amount and Type of Claim**

The undersigned is the holder of a Class \_\_ Claim in the Aggregate outstanding amount of \$\_\_\_\_\_.

**Item 2. Class \_\_ Vote**

The holder of the Class \_\_ Claim set forth in Item 1 votes (please check one):

☐ To Accept the Plan

☐ To Reject the Plan

**Item 3. Certifications**

By signing this Ballot, the undersigned certifies to the Bankruptcy Court and Debtors Korea Technology Industry America, Inc., Uintah Basin Resources, LLC, and Crown Asphalt Ridge, L.L.C. that:

(a) either (i) such person or entity is the beneficial interest holder of the Claim(s) being voted or (ii) such person or entity is an authorized signatory for some person or entity which is the beneficial interest holder of the Claim(s) being voted;

(b) such person or entity (or in the case of an authorized signatory, the beneficial interest holder) has received a copy of the Disclosure Statement and Solicitation Package and will acknowledge that the solicitation is being made pursuant to the terms and conditions set forth therein;

(c) no other Ballots with respect to the amount of the Claim(s) identified in Item 1 have been cast or, if other Ballots have been cast with respect to such Claim(s), such earlier Ballots are hereby revoked; and

(d) such person or entity (or in the case of an authorized signatory, the beneficial interest holder) shall be treated as the record holder of such Claim(s) for purposes of voting on the Plan.

Dated: \_\_\_\_\_

Name of Voter: \_\_\_\_\_  
(Print or Type)

Signature: \_\_\_\_\_

By: \_\_\_\_\_  
(If Appropriate)

Title: \_\_\_\_\_  
(If Appropriate)

Telephone No.: \_\_\_\_\_

**PLEASE COMPLETE, SIGN AND DATE THIS BALLOT AND RETURN IT PROMPTLY.  
YOUR BALLOT MUST BE RECEIVED BY:**

Durham Jones & Pinegar, P.C.  
111 East Broadway, Suite 900  
P.O. Box 4050  
Salt Lake City, UT 84110-4050  
Attn: Kenneth L. Cannon II

**BY 4:30 P.M. MOUNTAIN DAYLIGHT TIME ON OR  
BEFORE \_\_\_\_\_, 2012 OR YOUR BALLOT WILL NOT BE COUNTED**

## VOTING INSTRUCTIONS

1. Korea Technology Industry America, Inc., Uintah Basin Resources, LLC and Crown Asphalt Ridge, L.L.C (the "Debtors") are soliciting the votes of holders of Claims and Interests with respect to the Plan referred to in the Disclosure Statement. All capitalized terms used in the Ballot or these Voting Instructions but not otherwise defined therein shall have the same meaning ascribed them in the Disclosure Statement and Solicitation Order.
2. The Plan can be confirmed by the Bankruptcy Court, and therefore made binding upon you, if it is accepted by holders of two-thirds in amount and more than one-half in number of debt claims who vote in each impaired class voting on the Plan. Please review the Disclosure Statement for more information. Prior to a distribution, the creditor's Tax identification number or social security number must be presented to the Debtors and their counsel in order to receive a distribution.
3. To ensure that your vote is counted, you must (a) complete the Ballot, (b) indicate your decision to accept or reject the Plan in the boxes provided in Item 2 of the Ballot, and (c) sign and return the Ballot to the address set forth therein. **Your vote must be received by Debtors' Counsel by 4:30 p.m. Mountain Daylight Time on or before \_\_\_\_\_, \_\_\_\_\_, 2012 (the "Voting Deadline").**
4. If a Ballot is received after the Voting Deadline, it will not be counted. The method of delivery of Ballots to be sent to Debtors' Counsel is at the election and risk of each holder of a Claim. Except as otherwise provided herein, such delivery will be deemed made only when the original executed Ballot is actually received by Debtors' Counsel. Instead of effecting delivery by mail, it is recommended, though not required, that such holders use an overnight or hand delivery service. In all cases, sufficient time should be allowed to assure timely delivery. No Ballot should be sent to the Debtors. Instead, it should be sent or delivered to Debtors' Counsel at the address given above.
5. If multiple Ballots are received from an individual holder of Claim(s) with respect to the same Claim(s) prior to the Voting Deadline, the last Ballot timely received will supersede and revoke any and all earlier-received Ballots.
6. The Ballot is not a letter of transmittal and may not be used for any purpose other than to vote to accept or reject the Plan.
7. This Ballot does not constitute, and shall not be deemed to be, a proof of claim or equity interest or an assertion or admission of a claim or equity interest.
8. Please be sure to sign and date your Ballot. If you are completing the Ballot on behalf of an entity, indicate your relationship with such entity and the capacity in which you are signing. In addition, please provide your name and mailing address if different from that set forth on the attached mailing label or if no such mailing label is attached to the Ballot.
9. If you hold Claims in more than one class under the Plan, you may receive more than one Ballot. Each Ballot votes only the claims indicated on the Ballot. Please complete and return each Ballot you received.
10. You must vote all of your claims within a particular class of the Plan either to accept or reject the Plan and may not split your vote. Accordingly, a Ballot that partially rejects and partially accepts the Plan will not be counted.
11. Any Ballot that is properly completed, executed, and timely returned to Debtor's counsel but that does not indicate acceptance or rejection of the Plan, or indicates both acceptance and rejection of the Plan, may be deemed to be a vote to accept the Plan.
12. The following Ballots will not be counted in determining the acceptance or rejection of the Plan: (a) any Ballot that is illegible or contains insufficient information to permit the identification of the creditor or otherwise indicate an acceptance or rejection of the Plan; (b) any Ballot cast by a person or entity that does not hold a Claim in a Class that is entitled to vote on the Plan; (c) any Ballot cast for a Claim scheduled as unliquidated, contingent, or disputed for which no proof of claim was timely filed or an Order estimating or temporarily allowing the Claim by the Bankruptcy Court and (d) any unsigned Ballot and (e) any Ballot cast in bad faith as may be determined by the Bankruptcy Code.